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Notice of Allowability	Application No.	Applicant(s)	
	10/608,199	LIMBURG ET AL.	
	Examiner	Art Unit	
	Mark Tsidulko	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After Final Amendment filed on 12/23/04.
2. ☒ The allowed claim(s) is/are 1-14 and 16-50.
3. ☒ The drawings filed on 27 June 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 011805 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
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DETAILED ACTION

The submission of amendment filed on 12/23/04 is acknowledged. At this point claim 1 has been amended, claim 15 has been canceled and the remaining claims left unchanged. Thus, claims 1-14 and 16-50 are at issue in the instant application.

Allowable Subject Matter

Claims 1-14 and 16-50 are allowed.

The following is an examiner's statement of reasons for allowance:

Referring to Claim 1 the prior art of record fails to show a flameless candle having an opening in communication with ambient air and the air intake chamber and opening in communication with an ambient air and air outflow chamber located proximate one end of the housing.

Claims 2-8, 11 are allowed as claims depended on claim 1.

Referring to Claim 9 the prior art of record fails to show a flameless candle wherein a wall is positioned between the two opposing sides of the base.

Claim 10 is objected as claim depended on claim 9.

Referring to Claim 12 the prior art of record fails to show a flameless candle having a lid covering the air intake and air outflow chambers.

Claims 13 and 14 are objected as claim depended on claim 12.

Referring to Claim 16 the prior art of record fails to show a flameless candle having a wick and a fragrance source positioned in the air stream created by the fan.

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Claim 17 is objected as claim depended on claim 16.

Referring to Claim 18 the prior art of record fails to show a flameless candle wherein the wall has another opening and a light source positioned in this opening.

Referring to Claim 19 the prior art of record fails to show a flameless candle having a wick positioned in the air stream and a wax covered sidewall.

Claims 20-30 are objected as claim depended on claim 19.

Referring to Claim 34 the prior art of record fails to show a flameless candle having a wax covered housing and a lid positioned in the opening.

Claims 31-33, 35-40 are allowed as claims depended on claim 34.

Referring to Claims 41 and 47 the prior art of record fails to show a flameless candle wherein a sidewall is wax covered.

Claims 42, 43 are allowed as claims depended on claim 41.

Claims 46-50 are allowed as claims depended on claim 47.

Referring to Claim 44 the prior art of record fails to show a flameless candle having a fragrance source positioned in the air stream.

Claims 45 and 46 are allowed as claims depended on claim 44.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.T.
January 18, 2005


Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800